

Disciplinary and Other NASD Actions

REPORTED FOR OCTOBER

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of September 2003.

Firm Expelled, Individual Sanctioned

Investors Advocate, LLC (CRD #45801, Houston, Texas), Steven Maczka (CRD #2799300, Registered Principal, Grand Blanc, Michigan), and Jason Watkins (CRD #2242396, Registered Principal, Flint, Michigan). The firm was expelled from NASD membership and Maczka and Watkins were barred from association with any NASD member in any capacity. The sanctions were based on findings that the respondents intentionally or recklessly provided false and misleading information to NASD. In addition, the firm, acting through Maczka, conducted a securities transaction while it failed to maintain the required minimum net capital. The findings also stated that the firm, acting through Maczka, failed to maintain complete, accurate, and current books and records and filed false and inaccurate quarterly FOCUS reports. Furthermore, the firm, acting through Maczka, failed to file its audited annual financial statement and failed to respond completely to NASD requests for information. (NASD Case #C8A020007)

Firms Fined, Individuals Sanctioned

Andover Brokerage, LLC (CRD #33848, Montebello, New York) and Michael Picozzi, III (CRD #2504808, Registered Principal, Montebello, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$320,000, of which \$300,000 is joint and several with Picozzi. Picozzi was also suspended from association with any NASD member in any capacity for 22 business days and barred from acting in any supervisory capacity with a right to re-apply after five years. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm executed short-sale transactions at or below the preceding (best) inside bid in NASDAQ National Market® (NNM®) securities. NASD also found that the firm failed to make and annotate an affirmative determination for short-sale orders and reported transactions to the Automated Confirmation Transaction ServiceSM (ACTSM) as long sales when the firm's records indicate the transactions were, in fact, short sales. The findings also stated that the firm failed to maintain and preserve certain trade records relating to its short sales. In addition, NASD found that the firm and Picozzi failed to adequately supervise its short-sale transactions and failed to institute a supervisory system and establish and implement written procedures reasonably designed to prevent and detect the violations of the short sale rules. Furthermore, the findings stated that the firm failed to submit required information to the Order Audit Trail SystemSM (OATSSM) on

222 business days and transmitted to OATS execution reports that contained inaccurate, incomplete, or improperly formatted data. NASD also found that the firm failed to timely report to OATS Reportable Order Events.

Picozzi's suspension began September 15, 2003, and will conclude at the close of business October 14, 2003. (NASD Case #CMS030184)

Wells Investment Securities, Inc. (CRD #15252, Norcross, Georgia) and Leo Fred Wells, III (CRD #1076916, Registered Principal, Alpharetta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$150,000, jointly and severally with Wells. Wells was also suspended from association with any NASD member in a principal capacity for one year. Without admitting or denying the allegations, the firm and Wells consented to the described sanctions and to the entry of findings that they provided non-cash compensation worth more than \$100 to registered representatives whose guests attended firm conferences and used a predetermined sales goal to determine invitees. The findings also stated that the firm and Wells provided non-cash compensation in connection with conferences that did not qualify for any training and education expense exception that prohibits persons associated with member firms from giving, or permitted to be given, anything of value in excess of \$100 per individual per year where such payment or gift is in relation to the business of the recipient's firm. NASD also found that the firm and Wells provided non-cash sales incentive items in excess of \$100 per person per year in connection with offerings of registered, non-traded real estate investment trusts and direct participation partnerships sold through firms with which Wells Investment Securities has contractual relationships. Furthermore, NASD found that the firm and Wells failed to adhere to previous undertakings made not to engage in non-cash compensation activities.

Wells' suspension began October 6, 2003, and will conclude at the close of business October 5, 2004. (NASD Case #CAF030046)

Firms and Individuals Fined

Allen C. Ewing & Co. (CRD #26102, Jacksonville, Florida) and Otis Forrest Travis, Jr. (CRD #448967, Registered Principal, Jacksonville, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Travis consented to the described sanctions and to the entry of findings that the firm, acting through Travis, conducted a securities business while failing to maintain the required minimum net capital. The findings also stated that the firm, acting through Travis, prepared a materially inaccurate net capital computation. (NASD Case #C07030059)

Freedom Financial Inc. (CRD #45850, Omaha, Nebraska), and Jon Patrick Pierce (CRD #1612372, Registered Principal, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Pierce, participated in private placement contingency offerings, failed to promptly transmit funds received from investors to an appropriate escrow account, and transmitted funds received from investors to the offering before the minimum contingency was attained, thus rendering false and misleading the representations in the placement memorandum that investor funds would be returned if the minimum contingency was not attained. (NASD Case #C04030045)

Janssen Partners, Inc. (CRD #43940, Lake Success, New York) and Peter William Janssen (CRD #1041680, Registered Principal, Syosset, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Janssen, extended a private placement beyond the period specified in the offering memorandum without disclosing the extension to prior investors. The findings also stated that the firm, acting through Janssen, sold shares in an extended offering of the private placement, thereby increasing the total number of shares sold and the total dollar amount raised, and that the sale of additional shares rendered false the representations in the offering memorandum. In addition, NASD found that the firm, acting through Janssen, failed to establish an escrow account, for which it was a party to the escrow agreement, for the deposit of investor funds. (NASD Case #C8A030066)

Firms Fined

Blackbeard Securities, LLC (CRD #46748, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to record the time of entry on order tickets and incorrectly reported, via the ACT system, principal transactions as agency transactions. The findings also stated that the firm failed to keep a written record of its "affirmative determination" obligation for short-sale transactions, and its relevant written supervisory procedures and supervisory system were not reasonably designed to achieve compliance with the transaction-reporting requirements of NASD. (NASD Case #C01030022)

Carey Financial Corporation (CRD #15246, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without

admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to timely file Uniform Termination Notices for Securities Industry Registration (Forms U5) for representatives registered with NASD through the firm. (NASD Case #C05030041)

Carlin Equities Corporation (CRD #31295, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market, Inc., that were not in the electronic form prescribed by NASD. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning OATS. (NASD Case #CMS030185)

E*Trade Professional Trading, LLC (CRD #39293, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise its written supervisory procedures with respect to the applicable securities laws and regulations concerning NASD Conduct Rule 3350 and the reporting of short-sale transactions to NASD within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale transactions in NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the securities. NASD also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning NASD Conduct Rule 3350 and the reporting of short-sale transactions to NASD. (NASD Case #CMS030201)

Hold Brothers On-Line Investment Services LLC (CRD #36816, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$40,000, and required to revise its written supervisory procedures with respect to the applicable securities laws and regulations concerning short sales and OATS within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS on 92 business days. NASD also found that the firm executed short-sale transactions in NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in each of the securities. The findings stated that the firm executed short-sale transactions and failed to report each of these transactions to ACT with a short-sale modifier. In addition, NASD found that the firm executed long-sale transactions and incorrectly reported each of these transactions to ACT with a short-sale modifier. Furthermore, the findings stated that the

firm executed short-sale orders and failed to properly mark the order tickets as short for those orders. NASD also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning short sales and OATS. (NASD Case #CMS030196)

Peters Securities Co., L.P. (CRD #15970, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$19,500, and required to revise its written supervisory procedures with respect to the applicable securities laws and regulations concerning NASD Rule 3350 within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale transactions in certain securities, all of which were NNM securities, at or below the current inside bid when the current inside bid was below the proceeding inside bid the security. NASD also found that the firm failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt, or cross for transactions in eligible securities. The findings also stated that the firm failed to accurately mark sale order tickets for securities listed on a national exchange as long or short. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning NASD Rule 3350. (NASD Case #CMS030202)

Sands Brothers & Co., Ltd. (CRD #26816, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures with respect to the applicable securities laws and regulations concerning the Securities and Exchange Commission (SEC) and NASD firm quote rules within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute the orders upon presentment and thereby failed to honor its published quotation. In addition, NASD found the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the SEC and NASD firm quote rules. (NASD Case #CMS030192)

Wien Securities, Corp. (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute the orders upon presentment and thereby failed to honor its published quotation. (NASD Case #CMS030193)

Wien Securities Corp. (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which it was censured and fined \$20,000, of which \$7,500 was assessed jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to disclose information on an individual's Uniform Application for Securities Registration or Transfer (Form U4). NASD also found that the firm permitted an individual who was statutorily disqualified to be associated with, and conduct activities on behalf of, the firm. (NASD Case #C9B030056)

Individuals Barred or Suspended

Richard Allen Adler (CRD #846959, Registered Principal, Bluffton, South Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$108,948, including disgorgement of \$88,948 in ill-gotten gains, and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Adler reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Adler consented to the described sanctions and to the entry of findings that he recommended unsuitable mutual fund transactions to a public customer without a reasonable basis to believe that the transactions were suitable for the customer in light of the nature of the transactions and the facts disclosed by the customer regarding her other securities holdings, financial situation, and needs.

Adler's suspension began September 15, 2003, and will conclude at the close of business September 14, 2004. (NASD Case #C02030049)

Robert Russell Aikens (CRD #4558740, Registered Representative, Canton, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Aikens consented to the described sanction and to the entry of findings that he prepared and provided a forged diploma as proof that he had graduated from a university, when in fact he had not. (NASD Case #C8A030069)

Alexander Altman (CRD #500333, Registered Representative, Cliffside Park, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Altman consented to the described sanctions and to the entry of findings that he made payments totaling \$229,243.83 to public customers to make up for the interest customers lost when bonds defaulted. NASD also found that Altman failed to disclose these payments to his member firm.

Altman's suspension began September 29, 2003, and concluded at the close of business October 10, 2003. (NASD Case #C9B030066)

Daniel Joseph Ashbaker (CRD #1657652, Registered Representative, O'Fallon, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Ashbaker consented to the described sanctions and to the entry of findings that he participated in an outside business activity for compensation without providing prompt written notice to his member firm.

Ashbaker's suspension began September 15, 2003, and concluded at the close of business September 26, 2003. (NASD Case #C8A030064)

Christopher Gregory Barnes (CRD #3060496, Registered Representative, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Barnes reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Barnes consented to the described sanctions and to the entry of findings that he submitted a forged paramedical form in connection with an application for a variable life insurance policy for a public customer that included forged signatures, stamps of the paramedical examiner, and false information regarding the customer's health. The findings also stated that Barnes received a \$5,280 commission as a result of the forged paramedical form. In addition, NASD found that the commission was rescinded after the underwriter declined the application without issuing the policy because the customer failed to submit blood and urine samples for testing.

Barnes' suspension began September 15, 2003, and will conclude at the close of business June 14, 2004. (NASD Case #C04030047)

Dominick Michael Bianco (CRD #2723092, Registered Principal, S. Amityville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000 and barred from association with any NASD member in any principal or supervisory capacity. Without admitting or denying the allegations, Bianco consented to the described sanctions and to the entry of findings that he failed to adequately and properly supervise the trading activity by individuals employed at his member firm. NASD also found that Bianco failed to prevent registered representatives from effecting excessive and/or unsuitable option and equity transactions in heavily leveraged margin accounts. (NASD Case #C9B030060)

Christian William Blake (CRD #2216784, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction

was based on findings that Blake engaged in unauthorized transactions in the account of a public customer. The findings also stated that Blake failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C10030012)**

Glenn Daniel Bone, III (CRD #1638202, Registered Representative, Chicago, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Bone signed the name of his supervisory principal on new account applications without the principal's knowledge or consent. The findings also stated that Bone distributed unapproved sales or advertising literature and engaged in outside business activity without giving prompt written notice to his member firm. In addition, NASD found that Bone failed to respond completely to NASD requests for information and documents. **(NASD Case #C8A030022)**

Rodney Douglas Bowman (CRD #1619178, Registered Representative, Wilmington, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for eight months, and required to pay \$12,437.50, plus interest, in restitution to public customers. Without admitting or denying the allegations, Bowman consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in NASDAQ securities at prices that he knew would improve, and were intended to improve, the National Best Bid or Offer (NBBO) in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. The findings also stated that Bowman knowingly and intentionally entered orders to buy or sell shares of such securities because he knew, and intended, that they would be routed to market makers whose automated execution systems were programmed to buy or sell, and did buy or sell, such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO. NASD further found that, by knowingly and intentionally engaging in this course of conduct, Bowman bought (sold) shares of these securities at prices that were lower (higher) than he would otherwise have been able to buy (sell) shares of these securities. NASD found that, immediately after Bowman received the executions of the orders that he had entered in the trading account, he intentionally and knowingly canceled priced limit orders that he had entered. The findings further stated that, in all, Bowman bought and sold these NASDAQ securities, in at least 44 instances, thereby obtaining a financial benefit of approximately \$12,437.50.

Bowman's suspension began October 6, 2003, and will conclude at the close of business June 5, 2004. **(NASD Case #CMS030194)**

Jesse Jackson Bradin (CRD #2676199, Registered Representative, Manchester, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for two years, required to pay \$70,300 in disgorgement of commissions, and required to pay partial restitution, plus interest, to public customers. Without admitting or denying the allegations, Bradin consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Bradin's suspension began September 15, 2003, and will conclude at the close of business September 14, 2005. **(NASD Case #C11030028)**

Tommy Christopher Brown (CRD #3089765, Registered Principal, Chatsworth, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that, while employed by a bank affiliated with a member firm, he withdrew \$8,500 from the bank account of a public customer by signing the customer's name on a withdrawal slip without the customer's authorization. **(NASD Case #C02030053)**

Robert Thomas Bullock (CRD #1904732, Registered Representative, New Hartford, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. In light of Bullock's financial situation, no monetary sanction has been imposed. Without admitting or denying the allegations, Bullock consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. The findings also stated that Bullock prepared and sent false and misleading account statements to a public customer. In addition, NASD found that Bullock, in connection with the offer and sale of stock to a public customer, made written and verbal misstatements. Furthermore, NASD found that Bullock received a \$50,000 check from a public customer for investment purposes and, rather than investing the funds, he deposited the funds into an account of a company Bullock owned in part. **(NASD Case #C11030029)**

Michael James Burbage (CRD #2217929, Registered Representative, Bronxville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Burbage consented to the described sanction and to the entry of findings that he converted \$14,173.76 from the account of a public customer without the customer's prior knowledge, authorization, or consent. NASD also found that Burbage altered an internal firm document used to authorize the refund of money to customer

accounts by changing the dollar amount listed and approved by a supervisor from \$488.26 to \$14,488.26 in an effort to reimburse the public customer's account for the money Burbage converted. (NASD Case #C10030068)

Barry Francis Cassese (CRD #2080657, Registered Principal, E. Northport, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 40 days. Without admitting or denying the allegations, Cassese consented to the described sanctions and to the entry of findings that he effected a transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Cassese's suspension began September 15, 2003, and will conclude at the close of business October 24, 2003. (NASD Case #C10030070)

Judith Van Brocklin Clarke (CRD #1014789, Registered Representative, Littleton, Colorado) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Clarke consented to the described sanction and to the entry of findings that she failed to respond to NASD requests to appear for an on-the-record interview and to respond to NASD requests for information and documentation. (NASD Case #C3A030027)

Robert D'Agosta (CRD #1903105, Registered Representative, Bethlehem, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, D'Agosta consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide his member firm with prior written notification describing in detail the transaction and stating whether he had, or would receive, selling compensation in connection with the transaction.

D'Agosta's suspension began October 6, 2003, and will conclude at the close of business November 4, 2003. (NASD Case #C02030050)

John Joseph DePrimo (CRD #2046322, Registered Representative, Lake Ariel, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge \$46,480 of commissions in partial restitution to public customers. Restitution must be paid before DePrimo requests relief from any statutory disqualification. Without admitting or denying the allegations, DePrimo consented to the described sanctions and to the entry of findings that he engaged in outside business activities for which he received compensation without providing prior

written notification to, or obtaining written approval from, his member firm. (NASD Case #C9A030028)

Stephen Joseph Drunasky (CRD #1476191, Registered Representative, Beaver Dam, Wisconsin) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Drunasky reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Drunasky consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing his member firm with written notice of such outside business activity.

Drunasky's suspension began September 15, 2003, and will conclude on March 14, 2004. (NASD Case #C8A030042)

Kurtis Bradley Etherton (CRD #2039332, Registered Representative, Edina, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Etherton consented to the described sanction and to the entry of findings that he executed, or caused to be executed, wire transfers from the accounts of public customers to his personal account totaling \$309,717.45 without the authorization, knowledge, or consent of the customers, thereby converting and/or misusing the funds for his own personal use and benefit. (NASD Case #C04030043)

Leon Fintz (CRD #2251978, Registered Principal, N. Bellmore, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fintz consented to the described sanction and to the entry of findings that, acting on behalf of his member firm, he employed an accountant to perform its annual audits who was not "independent" in accordance with SEC Regulation S-X. NASD found that the individual's independence was impaired as the result of a \$500,000 loan from the firm issued by Leon Fintz at the direction of his member firm. The findings also stated that Fintz concealed the existence of the loan to the auditor by posting inaccurate and misleading entries in his firm's general ledger. NASD also found that Fintz, on behalf of his member firm, prepared and filed monthly FOCUS reports that contained inaccurate and misleading information and willfully filed monthly FOCUS reports that misrepresented his firm's financial condition by including the subject \$500,000 asset in the firm's financial statement. The findings also included that Fintz filed his member firm's audited financial statement on SEC Form X-17-a in which he willfully misrepresented that such statement was true and accurate. The findings also stated that the statement was materially misleading and inaccurate in that Fintz' member firm's financial statement overstated the firm's net capital position by \$500,000. (NASD Case #C9B030062)

Thomas Paul Francis (CRD #1847184, Registered Principal, Union, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Francis consented to the described sanction and to the entry of findings that he failed to adequately and properly supervise the trading activity by individuals employed by his member firm so as to prevent securities violations. NASD also found that Francis exercised control over the account of a public customer and effected excessive securities transactions in the account using unsuitable levels of margin in a manner that was inconsistent with the customer's investment objectives. (NASD Case #C9B030058)

Mia H. Gilchrist (CRD #2894991, Registered Representative, Mount Laurel, New Jersey) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gilchrist consented to the described sanction and to the entry of findings that she submitted to her member firm the purported request of a public customer to change the address of record for the customer's account that was not made or authorized by the customer. The findings also stated that Gilchrist, acting without authorization or knowledge of a public customer, caused money market funds in the account of the customer to be liquidated and a check totaling \$3,232.04 to be issued and sent to the new address of record for the account. NASD also found that, by unknown means, Gilchrist secured possession of the check and falsified, or caused to be falsified, the purported endorsement of the customer signature on the check and caused it to be deposited into the securities account of another customer. In addition, NASD determined that Gilchrist failed to respond to NASD requests for information. (NASD Case #C9A030026)

James Nelson Gould (CRD #872305, Registered Principal, Princeton Junction, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 20 business days. Without admitting or denying the allegations, Gould consented to the described sanctions and to the entry of findings that he failed to supervise an individual engaged in fraudulent private securities transactions. The findings stated that Gould sent a letter to the individual requesting that he stop his selling away activities three months after he was requested to do so, and sent the letter to a branch office other than the one at which the individual was based. NASD also found that Gould failed to ensure that there was meaningful follow-up after the letter was sent because the individual failed to initial and return the letter as requested. In addition, NASD found that the individual continued to participate in fraudulent private securities transactions.

Gould's suspension began October 6, 2003, and will conclude at the close of business October 31, 2003. (NASD Case #C02030052)

Gabriel Antonio Grullon, Jr. (CRD #2287985, Registered Representative, Manhasset, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Grullon consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents. The findings also stated that Grullon forged the signatures of public customers on bank checks, converting approximately \$94,498 from their brokerage accounts for his own use and benefit without the customers' prior knowledge, authorization, or consent. (NASD Case #C10030071)

Richard Leroy Harden (CRD #236740, Registered Representative, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$1,448,041 in restitution to public customers. Restitution must be paid before Harden reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Harden consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing written notification to, or obtaining written approval from, his member firm. NASD also found that Harden failed to respond to NASD requests for information and to appear for an NASD on-the-record interview. (NASD Case #C3A030035)

Kent William Helgeson (CRD #1647497, Registered Representative, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Helgeson consented to the described sanction and to the entry of findings that he submitted falsified receipts and expense reports to his member firm and received payment of \$8,329.12, thereby converting the funds to his own personal use and benefit. The findings also stated that Helgeson failed to respond truthfully to NASD requests for documents and information. (NASD Case #C04030042)

Bobby Lee Hunt (CRD #4523496, Registered Representative, Lansing, Michigan) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hunt consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on his Form U4. (NASD Case #C8A030046)

Gregory Allen Jasick (CRD #1440504, Registered Representative, Grand Rapids, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Jasick consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on a (Form U4).

Jasick's suspension began September 15, 2003, and will conclude on March 14, 2004. (CRD #C8A030065)

Kevin Scott Jones (CRD #1504897, Registered Representative, Houston, Texas) submitted an Offer of Settlement in which he was fined \$10,900, including disgorgement of \$8,500 in commissions received; suspended from association with any NASD member in any capacity for 10 business days; and ordered to pay \$1,600, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he recommended and effected the surrender of one variable annuity contract to finance the purchase of another variable annuity contract by a public customer in the amount of \$315,000 and earned a net commission of \$8,500. The findings also stated that Jones made the recommendation without having reasonable grounds for believing that the recommendation and resultant transactions were suitable for the customer based on her financial situation and needs.

Jones' suspension began September 15, 2003, and concluded at the close of business September 26, 2003. (NASD Case #C05030015)

Robert John Kaczorowski (CRD #2951779, Registered Representative, Branford, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kaczorowski consented to the described sanction and to the entry of findings that he solicited a public customer to invest in real estate limited partnerships that did not exist, and fraudulently represented to the customer that, by investing in the purported limited partnerships, she would double her investments. The findings also stated that the customer, relying on Kaczorowski's representations, invested \$10,000 in the limited partnerships, and Kaczorowski misappropriated the funds for his own use and benefit. (NASD Case #C11030030)

Yakov (Jack) Shulm Koppel (CRD #2448735, Registered Representative, Loch Sheldrake, New York) was suspended from association with any NASD member in any capacity for seven business days. The sanction was based on findings that Koppel committed gun jumping by soliciting a public customer to purchase securities when no registration statement was in effect or had otherwise been approved by the SEC.

Koppel's suspension began September 15, 2003, and concluded at the close of business September 23, 2003. (NASD Case C10010004)

Rebecca Sue Lancaster (CRD #4237068, Registered Representative, Abilene, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without

admitting or denying the allegations, Lancaster consented to the described sanction and to the entry of findings that she failed to respond to NASD requests for information. (NASD Case #C04030046)

John Murk Lockman, Jr. (CRD #818709, Registered Principal, Maitland, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Lockman reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lockman consented to the described sanctions and to the entry of findings that he effected private securities transactions without prior notice to, or written approval from, his member firm. The findings also stated that Lockman engaged in outside business activities and failed to provide prompt written notice to his member firm.

Lockman's suspension began September 15, 2003, and will conclude at the close of business September 14, 2004. (NASD Case #C07030058)

Paul Douglas Maraman (CRD #2758471, Registered Representative, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Maraman consented to the described sanction and to the entry of findings that he submitted, or caused to be submitted, falsified brokerage account statements on his firm letterhead to a public customer, which reflected incorrect money balances and transactions. The findings also stated that Maraman converted customer funds for his own use and benefit without their knowledge, authorization, or consent. The findings further stated that Maraman executed unauthorized transactions in the accounts of customers without their prior knowledge, authorization, or consent. NASD also found that Maraman failed to respond to NASD requests for information. (NASD Case #C04030040)

Jeffrey John Miller (CRD #2576559, Registered Representative, Onalaska, Wisconsin) was barred from association with any NASD member in any capacity. The sanction was based on findings that Miller recommended to, and effected securities transactions for, public customers without having reasonable grounds for believing that the recommendations and resulting transactions were suitable for the customers based on their financial situations, investment objectives, and needs. The findings also stated that Miller fraudulently misrepresented and omitted material facts in connection with the sale of securities and wrongfully retained commissions. The findings further stated that Miller failed to respond completely to NASD requests for information. (NASD Case #C8A030026)

Richard Craig Niece (CRD #1001706, Registered Representative, Pocatello, Idaho) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Niece consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Niece's suspension will begin October 20, 2003, and will conclude at the close of business January 19, 2004. **(NASD Case #C3B030013)**

David Earl Peterson (CRD #1704206, Registered Principal, Irvine, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 20 business days. Without admitting or denying the allegations, Peterson consented to the described sanctions and to the entry of findings that he failed to supervise a registered representative in a manner reasonably designed to achieve compliance with SEC and NASD rules. The findings stated that Peterson, after learning of the representative's selling away activities, ignored red flag warnings that the representative continued to sell away, consistently failed to monitor the representative's incoming and outgoing correspondence as prescribed by firm procedures, and failed to conduct required site inspections of "detached" representatives who worked out of their own offices. The findings also stated that Peterson failed to implement heightened or other special supervision of the representative who continued to participate in the sale of unregistered securities.

Peterson's suspension began October 6, 2003, and will conclude at the close of business October 31, 2003. **(NASD Case #C02030051)**

George William Phillips (CRD #362561, Registered Principal, Stony Brook, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Phillips consented to the described sanction and to the entry of findings that he pled guilty to charges that he violated Title 18, Section 1954 of the United States Code. The charges asserted that Phillips unlawfully and knowingly, directly and indirectly, gave and offered and/or promised to give and offer fees, kickbacks, commissions, gifts, money, and/or things of value in violation of said status in connection with Phillips' dealings with a member of the board of trustees of two union pension funds while registered with NASD as a general securities principal and general securities representative. **(NASD Case #C10030069)**

Thomas Michael Rohrer (CRD #858539, Registered Representative, Glenview, Illinois) submitted an Offer of Settlement in which he was barred from association with any

NASD member in any capacity. Without admitting or denying the allegations, Rohrer consented to the described sanction and to the entry of findings that he recommended and effected purchases or sales of securities transactions that constituted excessive trading activity for a public customer's individual retirement account (IRA) without having a reasonable basis for believing that the recommendations and resultant transactions were suitable for the customer. The findings also stated that Rohrer purchased or sold, or caused the purchase or sale of, various securities for the IRA of a customer, without the knowledge or consent of the customer, and the absence of written or oral authorization to Rohrer to exercise discretion in the account. In addition, NASD found that Rohrer failed to provide truthful and non-misleading information during an on-the-record interview conducted by NASD. **(NASD Case #C8A030012)**

Michael Allyn Rose (CRD #2891577, Registered Principal, Lawrence, New York) submitted an Offer of Settlement in which he was required to disgorge \$84,997 in commissions in partial restitution to public customers, and suspended from association with any NASD member in any capacity for two years. Restitution must be paid before Rose reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rose consented to the described sanctions and to the entry of findings that he made purchase recommendations and failed to disclose to public customers that his compensation would include a sales credit. NASD also found that Rose predicted the future price of a common stock in order to induce public customers to follow his recommendation and made certain representations to public customers concerning his personal ownership of stock in a company, his expected compensation for the recommended transactions, the business and business prospects of the company, the company's financial circumstances and financing prospects, its expected news announcements, and the industry in which the company was a participant. Rose did not have a reasonable basis for making these representations.

Rose's suspension began September 15, 2003, and will conclude at the close of business September 14, 2005. **(NASD Case #C3A030014)**

Shawn Elliot Russell (CRD #4081056, Registered Representative, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Russell consented to the described sanction and to the entry of findings that he recommended the purchase of shares of stock to public customers, made misrepresentations of material facts and unwarranted price predictions, and failed to disclose material facts to the customers. The findings also stated that Russell told a public customer that his member firm would place a stop loss

order on the stock if the price dropped below a certain point when, in fact, no such order had been placed. NASD also found that Russell placed unauthorized purchases of stock in the accounts of public customers by selling shares of another stock even though the accounts were not discretionary and Russell had no written authority to trade on discretion in these accounts. In addition, Russell failed to respond to NASD requests to appear and give testimony. (NASD Case #CAF030045)

David Lloyd Rutkoske (CRD #1496393, Registered Principal, Allen, Texas) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity with a right to reapply after three years. Without admitting or denying the allegations, Rutkoske consented to the described sanction and to the entry of findings that, acting through his member firm, he participated in the sale of unregistered securities. The findings also stated that, while engaged in a continuous distribution of stock, Rutkoske actively bid for, purchased, and attempted to induce others to purchase stock during the distribution period in violation of SEC Regulation M. NASD also found that Rutkoske controlled and participated with his member firm in charging unfair and fraudulent markups in the sale of stocks. In addition, NASD found that Rutkoske failed to respond to NASD requests for information or documents. (NASD Case #CAF020012)

John Battista Sacco (CRD #2410017, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity and ordered to pay \$10,000 in restitution to a public customer. The sanctions were based on findings that Sacco induced a public customer to invest \$10,000 in securities and made misrepresentations and omissions of material fact regarding the company's ownership and pending public offerings of stock. The findings also stated that Sacco participated in private securities transactions without prior written notice to his member firm. NASD also found that Sacco failed to respond to NASD requests for information. (NASD Case #C10030005)

Ramzi J. Sarkis (CRD #2280252, Registered Representative, Randolph, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sarkis consented to the described sanction and to the entry of findings that he engaged in an outside business activity without prompt written notice to his member firm. The findings also stated that Sarkis failed to respond to an NASD request to appear for an on-the-record interview. (NASD Case #C11030032)

Juan C. Sarmiento (CRD #4421729, Associated Person, Passaic, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sarmiento consented to the described sanction

and to the entry of findings that he willfully failed to disclose material facts on his Form U4. (NASD Case #C9B030061)

Tonya Marie Scott (CRD #3253312, Registered Representative, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500, suspended from association with any NASD member in any capacity for 20 business days, and ordered to disgorge \$1,423.51, plus interest, in unjust profits or ill-gotten gains to a public customer. The fine and disgorgement amount must be paid before Scott reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Scott consented to the described sanctions and to the entry of findings that she met with a public customer to discuss the investment of proceeds of a life insurance policy for which the customer was the beneficiary, and negligently misrepresented the details of a mutual fund to the customer, thereby inducing the customer to invest the life insurance policy proceeds in the mutual fund. The findings also stated that Scott received \$1,423.51 in commissions as a result of the customer's investment.

Scott's suspension began September 15, 2003, and concluded at the close of business October 10, 2003. (NASD Case #C8B030016)

Linda Joan Shenko (CRD #2324137, Registered Representative, Whitesboro, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Shenko converted public customer funds. (NASD Case #C11030014)

Kathleen Whorley Sommer (CRD #2750036, Registered Representative, Phoenix, Arizona) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity, and ordered to disgorge \$22,500 in commissions earned in partial restitution to public customers. Restitution must be paid before Sommer reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sommer consented to the described sanctions and to the entry of findings that she participated in outside business activities without providing written notice to her member firm. NASD also found that Sommer appeared for an NASD on-the-record interview and failed to answer staff questions. (NASD Case #C3A030009)

Edwardo Xavier Sosa (CRD #2703160, Registered Representative, New York, New York) submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Sosa consented to the described sanctions and to the entry of findings that he opened brokerage accounts in the names of

public customers and purchased, or caused to be purchased, shares of common stock and warrants into the accounts without the customers' authorization.

Sosa's suspension began September 2, 2003, and concluded at the close of business September 29, 2003. (NASD Case #CAF020071)

Christopher Kenneth Stirk (CRD #2957284, Registered Representative, Bothell, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stirk consented to the described sanction and to the entry of findings that he converted \$12,313.15 in public customer funds to his own use and benefit. NASD also found that Stirk sold, or caused to be sold, bonds from the account of public customers without the customers' knowledge or authorization and in the absence of written or oral authorization to exercise discretion in the account. (NASD Case #C3B030012)

Frank Sullivan (CRD #4186907, Registered Representative, Patchogue, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Sullivan reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sullivan consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information in a timely manner.

Sullivan's suspension began September 15, 2003, and concluded at the close of business October 14, 2003. (NASD Case #CLI030019)

Janice Poland Tanno (CRD #365017, Registered Representative, Hudson, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which she was suspended from association with any NASD member in any capacity for three months. In light of the financial status of Tanno, no monetary sanctions have been imposed. Without admitting or denying the allegations, Tanno consented to the described sanction and to the entry of findings that she participated in private securities transactions and failed and neglected to give written notice of her intention to engage in such activities to her member firm, and failed to receive written approval from her firm prior to engaging in such activities.

Tanno's suspension began September 15, 2003, and will conclude December 14, 2003. (NASD Case #C8B030017)

Jeffrey James Tegethoff (CRD #2768285, Registered Representative, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from

association with any NASD member in any capacity. Without admitting or denying the allegations, Tegethoff consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C04030044)

Regan Andrea Tegge (CRD #2488648, Registered Principal, Sea Cliff, New York) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$20,000 and suspended from association with any NASD member in any principal and supervisory capacity for one year. Tegge must also requalify by exam as an options principal and a general securities principal before serving again in either capacity. The fine must be paid before Tegge reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Tegge consented to the described sanctions and to the entry of findings that she failed to adequately and properly supervise the options trading activity of various individuals employed by her member firm so as to prevent violations of securities laws, regulations, and NASD rules.

Tegge's suspension began October 6, 2003, and will conclude at the close of business October 5, 2004. (NASD Case #C9B030057)

Thomas Michael Tiernan, Jr. (CRD #1010579, Registered Principal, West Islip, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Tiernan consented to the described sanction and to the entry of findings that he failed to adequately and properly supervise the trading activity of individuals employed by his member firm in that he permitted registered representatives to effect excessive and/or unsuitable option and equity transactions in heavily leveraged margin accounts. (NASD Case #C9B030059)

Bruce Lynn Troyer (CRD #2567737, Registered Representative, Lake St. Louis, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to pay \$87,250, plus interest, in restitution to public customers, and barred from association with any NASD member in any capacity. The fine must be paid before Troyer reassociates with any NASD member following the bar or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Troyer consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation and failed to provide his member firm with detailed written notice of the transactions, his role therein, and to receive permission from his member firm to engage in the transactions. The findings also stated that Troyer received checks totaling \$28,000 from public customers to be invested, and, without the knowledge or consent of the customers, endorsed and

deposited the checks into an account under his control, thereby converting customers funds to his own use and benefit. In addition, the findings stated that Troyer received a \$5,000 check from a representative on behalf of a public customer to be invested, endorsed and deposited the customer's check into his personal bank account, held the funds for a period of time, and invested the funds at a later time, thereby misusing customer funds. (NASD Case #C04030049)

Joan Eileen Vaccaro (CRD #4251895, Registered Representative, Pompton Plains, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vaccaro consented to the described sanction and to the entry of findings that she was suspended from a job as an accountant with an employer for failing to inform them that she was employed by an NASD member firm. NASD also found that Vaccaro falsely claimed that she had lost wages from the accounting position as a result of the September 11, 2001, World Trade Center disaster when she applied for benefits from the Federal Emergency Management agency (FEMA), in which she falsely claimed that she had lost wages from the accounting position as a result of the September 11, 2001 World Trade Center disaster. The findings also stated that Vaccaro willfully failed to amend her Form U4 to disclose material facts. (NASD Case #C9B030064)

David Lowell Walch (CRD #1242890, Registered Principal, Provo, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 18 months. In light of the financial status of Walch, no monetary sanction has been imposed. Without admitting or denying the allegations, Walch consented to the described sanction and to the entry of findings that he recommended and effected high-risk mutual fund transactions for public customers without having reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customers on the basis of the customers' financial situation and needs.

Walch's suspension will begin October 20, 2003, and will conclude at the close of business April 19, 2004. (NASD Case #C06030019)

Paul Clifford Wentzlaff (CRD #1811761, Registered Representative, Sioux Falls, South Dakota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Wentzlaff reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wentzlaff consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice to his member firm and the compensation he was receiving for these transactions.

Wentzlaff's suspension began October 6, 2003, and will conclude at the close of business October 5, 2005. (NASD Case #C04030048)

Gary David Winter (CRD #1533705, Registered Principal, Fresno, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in capacity for one month. In light of the financial status of Winter, no monetary sanction has been imposed. Without admitting or denying the allegations, Winter consented to the described sanction and to the entry of findings that he recommended and effected the sale of a \$180,000 deferred variable annuity contract to a public customer without having reasonable grounds for believing that the recommendation and resultant sale were suitable for the customer on the basis of the customer's financial situation, investment objectives, and needs. The findings also stated that Winter recommended and effected the sale to a public customer of a variable life insurance contract that was unsuitable because the amounts invested were insufficient to cover the annual cost, and the customer had insufficient income or other available funds to otherwise pay the cost of insurance charges.

Winter's suspension began October 6, 2003, and will conclude at the close of business November 5, 2003. (NASD Case #C05030044)

Richard Scott Wood (CRD #2158798, Registered Principal, Wichita, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in capacity. Without admitting or denying the allegations, Wood consented to the described sanction and to the entry of findings that he converted customers' funds in that, without the knowledge or consent of public customers, he transferred, or caused to be transferred, funds from the public customers' credit union accounts to an account under his control. The findings also stated that Wood partially failed to respond to NASD requests for information. (NASD Case #C04030041)

Gina Jie Wu (CRD #4544811, Registered Representative, Irvine, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wu consented to the described sanction and to the entry of findings that she willfully misrepresented a material fact on her Form U4. (NASD Case #C02030046)

Steven Dean Yarn (CRD #1745954, Registered Principal, Randallstown, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, ordered to pay \$120,000 in restitution to a public customer, and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Yarn reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Yarn consented to the described

sanctions and to the entry of findings that he participated in private securities transactions outside the scope of his association with his member firm and without providing prior written notice of such activities to his member firm.

Yarn's suspension began October 6, 2003, and will conclude at the close of business April 5, 2004. (NASD Case #C9A030027)

Brent L. Zimmerman (CRD #4549694, Associated Person, Altoona Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zimmerman consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on a Form U4 and failed to respond to NASD requests for information. (NASD Case #C9A030030)

Decisions Issued

The following decisions have been issued by the DBCC or the Office or Hearing Officers and have been appealed to or called for review by the NAC as of September 5, 2003. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Davrey Financial Services, Inc. (CRD #38914, Tacoma, Washington) and Pravin Roy Davrey (CRD #2243197, Registered Principal, Tacoma, Washington). Davrey Financial Services, Inc. ("firm") is censured, fined \$35,000, and required to submit all of its proposed advertising to NASD's Advertising Regulation Department for "pre-use" approval for a period of two years. Pravin Davrey is suspended from association with any NASD member in any capacity for two years and ordered to requalify by exam as a financial and operations principal (FINOP) before again serving in such capacity. The sanctions were based on findings that the firm, acting through Davrey, failed to maintain accurate books and records, in that the firm made payments out of its operating account to certain shareholders pursuant to the terms of two Stock Redemption Agreements, but did not record the corresponding liability on the firm's books and records. NASD found, in addition, that Davrey allowed the firm to engage in a securities business when the firm did not meet its minimum net capital requirement. NASD also found that the firm, acting through Davrey, made exaggerated, unwarranted, and misleading statements, and that Davrey failed to provide specific warnings and disclosures required in advertisements regarding options. In addition, NASD determined that Davrey failed to submit every advertisement pertaining to options to NASD's Advertising Regulation Department at least 10 days prior to use, and failed to include in the advertisement certain required information about how an investor can obtain an Options Disclosure Document, as required by SEC Exchange Act Rule 134.

This case is on appeal to the National Adjudicatory Council (NAC), and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3B020015)

Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Robert Michael Dooley (CRD #2735594, Registered Representative, Highlands Ranch, Colorado) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to a public customer to purchase mutual funds, without having a reasonable basis for believing that the recommendations were suitable based on the customer's circumstances and needs. (NASD Case #C3A030036)

Doyle Scott Elliott (CRD #1727061, Registered Principal, Anna Maria, Florida) was named as a respondent in an NASD complaint alleging that he received \$35,000 from a public customer for investment purposes, failed to deposit the funds into an account at his member firm, and provided the customer with trade confirmations purporting to confirm sell transactions in stock from Elliott's account at his member firm. The complaint also alleges that the trade confirmations were fictitious, Elliott did not have an account at his member firm, and the transactions did not occur at his member firm. In addition, the complaint alleges that Elliott failed to provide the customer with the proceeds from any securities transactions and failed to return any of the \$35,000 to the customer. The complaint also alleges that Elliott failed to respond to NASD requests for information. (NASD Case #C07030057)

Salvatore John Fabrizio (CRD #2505827, Registered Representative, Long Island City, New York) was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without their knowledge, authorization, or consent. The complaint also alleges that Fabrizio failed to respond to NASD written requests for information and documentation, but did provide information responsive to the requests during an NASD on-the-record interview. (NASD Case #C10030073)

Maxine Elaine Fowler (CRD #2416814, Registered Representative, Greer, South Carolina) was named as a respondent in an NASD complaint alleging that she made misrepresentations in selling long-term, callable certificates of deposit (CDs) to public customers, in that Fowler made customers believe they were buying CDs with short-term

maturities. The complaint also alleges that Fowler failed to respond to NASD requests for information. (NASD Case #C05030043)

Gordon Philip Lewis (CRD #1443906, Registered Representative, Lakeport, California) was named as a respondent in an NASD complaint alleging that he recommended and effected transactions in a public customer's account without having reasonable grounds for believing that his recommendations were suitable for the customer based on the facts disclosed by the customer as to her other securities holdings, financial situation, and needs. The complaint also alleges that Lewis prepared and submitted to his member firm order tickets that falsely represented that the purchases were unsolicited when, in fact, they were solicited. In addition, the complaint alleges that Lewis paid \$24,000 to a customer for the losses suffered by the customer without disclosing the payment to his member firm. (NASD Case #C01030026)

Sampson McKie, III (CRD #4209727, Associated Person, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he caused \$1,072.94 in a public customer's funds to be moved from his account with his member firm into his personal account at the firm without authorization. The Complaint also alleges that McKie withdrew the funds from the account for his own personal use. (NASD Case #C9B030055)

Gregory Alan Newton (CRD #2714180, Registered Representative, Tucson, Arizona) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to public customers without having a reasonable basis for believing that the recommendations were suitable based on information provided to him about the customers' financial situation, needs, and other security holdings. (NASD Case #C3A030037)

Stephen Michael O'Donnell (CRD #1931363, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he intentionally or recklessly failed to disclose materially adverse information to public customers. The complaint also alleges that O'Donnell intentionally or recklessly failed to disclose to customers his financial incentive for recommending a stock. In addition, the complaint alleges that O'Donnell acted in contravention of Section 10(b) of the Securities Exchange act of 1934 and Rule 10b-5, promulgated thereunder, in that, by use of the means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, he employed a device, scheme, or artifice to defraud; omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business which operated or could operate as a fraud or deceit upon persons in connection with the recommendations he made to customers. (NASD Case #C3A030039)

Rahman Rose (CRD #4466642, Registered Representative, Central Islip, New York) was named as a respondent in an NASD complaint alleging that, while exercising effective control over a public customer's account, he effected or caused to be effected excessive purchase and sale transactions in the customer's account. The complaint also alleges that Rose, by the use of the means of instrumentalities of interstate commerce or of the mails, knowingly or recklessly used or employed, in connection with the purchase or sale of securities, manipulative or deceptive devices or contrivances; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. In addition, the complaint alleges that Rose recommended purchase and sale transactions to a public customer without having reasonable grounds for believing that such transactions were suitable for the customer in view of the size and frequency of the transactions, the nature of the account, and the customer's financial situation and needs. The complaint further alleges that Rose failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C9B030063)

Terrence Richard Sprague (CRD #1612506, Registered Representative, Seattle, Washington) was named as a respondent in an NASD complaint alleging that he made misrepresentations of material facts in selling long-term, callable CDs to public customers. The complaint also alleges that Sprague failed to respond to NASD requests for information. (NASD Case #C05030045)

Brett James Sandman (CRD #4018124, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he failed to disclose material facts and made material misrepresentations to public customers in his solicitation of the customers to purchase shares of stock that were highly speculative and not registered with the SEC. The complaint also alleges that Sandman failed to perform adequate due diligence on the stock. The complaint further alleges that Sandman failed to respond to NASD requests to appear for testimony. (NASD Case #CAF030044)

Robert Tedeschi (CRD #2616329, Registered Principal, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he intentionally or recklessly failed to disclose materially adverse information to public customers in connection with his recommendation that they purchase a stock, and failed to disclose his financial incentive for recommending the stock. The complaint also alleges that Tedeschi acted in contravention of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, promulgated thereunder, in that, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, he employed a device, scheme, or artifice to defraud; omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business

which operated, or could operate, as a fraud or deceit upon persons, in connection with the recommendations he made to customers. (NASD Case #C3A030038)

Yankee Financial Group, Inc. (CRD #17966, Melville, New York), Richard Francis Kresge (CRD #729077, Registered Principal, Bay Shore, New York), and Gary Joseph Giordano (CRD #2722480, Registered Principal, Brooklyn, New York) were named as respondents in an NASD complaint alleging that the firm, Kresge, and Giordano entered into an oral agreement and, in connection with the purchase or sale of securities and by the use of means or instrumentalities of interstate commerce or by the mails, directly or indirectly, knowingly or recklessly employed devices, schemes, or artifices to defraud; made untrue statements of material facts or omission to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

or engaged in acts, practices, or courses of business which operated, or would operate, as a fraud or deceit upon any person. Furthermore, the complaint alleges that the firm, acting through Kresge and Giordano, egregiously failed to supervise the sales activities and other highly suspicious conduct of the brokers and unregistered individuals in the firms and allowed the firms to operate without any written supervisory procedures. The complaint also alleges that the firm failed to report customer complaints to NASD. In addition, the complaint alleges that the firm, acting through Kresge, allowed an unregistered person to participate in discussions and decision-making about the division of responsibilities for the operation, management, and supervision of branch offices, and allowed the individual to have branch employees remain on the premises and to operate the branch office on a daily basis. (NASD Case #CMS030182)

Firm Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

M.A. Berman Co.
Boca Raton, Florida
(August 20, 2003)

Firm Suspended for Failure to Supply Financial Information

The following firm was suspended from membership in NASD for failure to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 8221. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

E Street Access
Englishtown, New Jersey
(August 7, 2003)

Suspension Lifted

NASD has lifted the suspension from membership on the date shown for the following firm because it has complied with formal written requests to submit financial information.

Clarity Securities, Inc.
Miami, Florida
(August 7, 2003)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210.

(The date the bar became effective is listed after the entry.)

Boston, Michael A.
S. Richmondhill, New York
(August 20, 2003)

Bridges, III, William
Florence, South Carolina
(August 27, 2003)

Bruteyn, Jeffrey Charles
Dallas, Texas
(August 27, 2003)

Burgdorf, Richard B.
Birmingham, Alabama
(August 25, 2003)

Glikberg, Carmen
Chicago, Illinois
(August 26, 2003)

Gomez, IV, Jose Angel
Miami Beach, Florida
(August 27, 2003)

Guirand, Gary D.
Baldwin, New York
(August 20, 2003)

Hedberg, Russell Glen
Rockford, Illinois
(August 13, 2003)

Kanabroski, Daniel J.
Union, Kentucky
(August 14, 2003)

Robinson, Paul,
Marietta, Georgia
(August 6, 2003)

Ross, William M.
Uniondale, New York
(August 28, 2003)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested under NASD Rule 8210.

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Brisbin, May Yan
Denton, Texas
(August 12, 2003)

Cobb, Edward Peter
Glen Rock, New Jersey
(August 11, 2003)

Cohen, Alvin Marc
Irvine, California
(August 12, 2003)

Eltzroth, Geoffrey
Marion, Indiana
(August 13, 2003)

Frambes, Steven C.
Dunn Loring, Virginia
(August 25, 2003)

Gura, Lee
Vista, California
(August 11, 2003)

Jin, Yanshi Rock
Vienna, Virginia
(August 5, 2003)

Larue, David E.
West Palm Beach, Florida
(August 14, 2003)

Nelson, Thomas E.
Scottsdale, Arizona
(August 7, 2003)

Plata, Edwin
Lodi, New Jersey
(August 18, 2003)

Tran, Jack
Boca Raton, Florida
(August 13, 2003)

Wolf, Tim Lee
Chandler, Arizona
(August 26, 2003)

Young, Christopher K.
Shreveport, Louisiana
(August 5, 2003)

Individuals Suspended Pursuant to NASD Rule Series 9514(g) for Failure to Comply With an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Bendetsen, Brookes M.
Burlingame, California
(August 5, 2003 –
September 15, 2003)

Dirks, Raymond L.
New York, New York
(August 5, 2003 –
September 3, 2003)

Tye, Walter A.
Boca Raton, Florida
(August 5, 2003)

Visconti, Joseph C.
Palm Beach, Florida
(August 5, 2003)

Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Adler, Len
Brooklyn, New York
(August 20, 2003)

Gillen, Frank J.
Salt Lake City, Utah
(August 20, 2003)

Gregory, Richard S.
Allen, Texas
(August 20, 2003)

Komorsky, Adolph
Tarrytown, New York
(August 20, 2003)

Travis, David T.
Aurora, Colorado
(August 20, 2003)

Individual Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Vogt, Michael
Riverhead, New York
(August 7, 2003 –
August 13, 2003)

NASD Fines Morgan Stanley \$2 Million for Prohibited Mutual Fund Sales Contests; Managing Director of Firm's Retail Sales Force Also Fined for Supervisory Violations

NASD announced today that it had censured and fined Morgan Stanley DW Inc. \$2 million for conducting prohibited sales contests for its brokers and managers to promote the sale of Morgan Stanley mutual funds and a selected few variable annuities. Between October 1999 and December 2002, the firm conducted 29 contests, and offered or awarded various forms of non-cash compensation to the winners, including tickets to Britney Spears and Rolling Stones concerts, tickets to the NBA finals, tuition for a high-performance automobile racing school, and trips to resorts.

Morgan Stanley conducted at least two national contests, 10 regional contests, and 17 branch contests that violated NASD conduct rules. The 29 contests violated NASD rules because they favored Morgan Stanley's own proprietary mutual funds. The estimated value of the contest rewards totaled \$1 million.

NASD also charged Morgan Stanley and the head of its retail sales division, Bruce F. Alonso, with supervisory violations. Morgan Stanley failed to have any supervisory systems or procedures in place to detect and prevent this widespread misconduct. In fact, NASD found that the firm did not have any systems or monitoring procedures in place until January of this year. Alonso, who led the effort to promote MSDW proprietary mutual funds, failed to supervise the sales force to prevent the sales contest violations in question. He was censured and fined \$250,000.

"It is not acceptable for NASD-regulated firms to hold contests for prizes that promote the sale of one fund, especially their own, over other mutual fund products," said Mary L. Schapiro, NASD's Vice Chairman and President of Regulatory Policy and Oversight. "NASD rules are designed to prevent brokers from placing their interest in receiving lucrative rewards over the investment needs of their customers.

"NASD also requires firms to establish supervisory systems and procedures to achieve proper compliance. Morgan Stanley's failure to have any related systems or procedures in place allowed this misconduct to occur."

In enacting the non-cash compensation rules, the SEC and NASD recognized that the types of sales contests seen in this case increased the potential for investors to be steered into investments that are less suitable than some alternatives. These rules were designed to prevent the conflicts of interest that might arise for the broker when faced with such a choice.

NASD's investigation found that national managers at Morgan Stanley pressured regional managers to meet sales goals, and

regional managers, in turn, pressured branch managers to meet these goals. The prohibited sales contests were a by-product of that pressure.

For example, in July 2002, the firm initiated a sales campaign called "Finding the Right Fit." The goal of that campaign was to achieve sales of \$5 billion of Morgan Stanley funds for the fourth quarter of fiscal year 2002. As part of that campaign, national managers encouraged regional managers to meet specific sales goals. To achieve these national sales goals, four regions each held prohibited sales contests.

In one case, the Southeast Region sponsored a contest in which the top-producing branch managers could win a trip to New York City. This contest, which was held on a monthly basis, set a goal of \$100,000 per financial advisor in sales of Morgan Stanley mutual funds.

In June 2002, Morgan Stanley conducted a national sales campaign focusing on one of its new mutual funds, the Morgan Stanley Small-Mid Special Value Fund. As part of that campaign, national management set a sales goal of \$500 million within the first month of the campaign. The national managers also required 100 percent participation in the campaign by all regions and branches of the firm. The firm offered rewards including dinner hosted by senior national management in New York City or travel and entertainment expense reimbursements to the managers of the top producing regions.

Regional managers held contests to meet the sales goals. For instance, the Regional Director of the Southeast Region set a sales target of \$75 million in total sales of the Small-Mid Special Value Fund, consisting of \$50,000 for each financial advisor in each branch office in the region. To help achieve that sales target, the Southeast Regional Director offered the top three branch managers a trip to Sea Island, Georgia, for dinner and golf school. In another contest, the Southern California Regional Director offered tickets to a 2002 NBA finals game involving the Los Angeles Lakers, and attendance at a due diligence meeting at a Four Seasons resort.

The branch managers, in turn, created their own contests in order to meet their offices' sales goals. They provided rewards to the top-producing financial advisors in their branches. The branch manager of the Alexandria, Virginia, office offered all-expenses paid vacations to Hawaii and the Caribbean. However, these rewards ultimately were cancelled. The branch manager of the Santa Ana, California, office offered Britney Spears concert tickets, retail gift certificates, and travel and entertainment expense reimbursements.

Morgan Stanley paid regional and branch managers a significant portion of their compensation as bonuses, consisting of "Management Incentive Compensation" and "Challenge Goal" bonuses. These were based, in part, on regional and branch

managers' ability to promote sales of Morgan Stanley mutual funds and meet their sales goals, as set by senior management, including Alonso.

Branch managers' compensation was tied directly to the profitability of their branches. Branches retained a significantly greater percentage of revenue on sales of Morgan Stanley mutual funds than other funds.

Morgan Stanley apparently attempted to shield this focus on sales of its own mutual funds from the public as much as possible to avoid public relations ramifications. This is evidenced from electronic mail messages by a regional manager directing branch managers and other employees to refrain from putting in writing details regarding contests promoting Morgan Stanley mutual funds. Former branch managers corroborated this policy.

In settling these charges, Morgan Stanley and Alonso neither admitted nor denied the charges.

NASD Sanctions Wells Investment Securities and its President For Non-Cash Compensation Rule Violations

NASD has sanctioned Wells Investment Securities, Inc., a sponsor of real estate investment trusts (REITs), for rewarding broker/dealer representatives who sell their REITs with lavish entertainment and travel perquisites, in violation of NASD rules. NASD censured Wells Investment and its President, Leo Wells, and fined them \$150,000. NASD also suspended Leo Wells from acting in a principal capacity for one year.

NASD prohibits REIT sponsors from rewarding broker/dealer representatives from other firms with entertainment, gifts or other non-cash compensation. These practices create point-of-sale incentives that may undermine a representative's ability to objectively recommend suitable investments to customers. These payments directly from the REIT sponsor also could interfere with the ability of the representatives' own firms to supervise their sales activities.

"Our non-cash compensation rules help ensure that members and their representatives make recommendations that are in the best interest of their customers," said Mary Schapiro, Vice Chairman of NASD. "This case makes clear that NASD will not tolerate any payment of non-cash compensation that runs afoul of those rules."

Wells Investment, based in Norcross, Georgia, is affiliated with Wells Real Estate Funds, Inc., which is primarily involved in the acquisition and management of office buildings and other commercial properties. These projects are funded through the sale of REIT and direct participation program (DPP) offerings managed by Wells Investment and sold through other broker/dealers. To date, Wells Investment has managed four REIT offerings, which have raised investor proceeds in excess of \$3

billion, and 13 DPPs, which have raised investor proceeds in excess of \$300 million.

In 2001 and 2002, Wells Investment sponsored conferences in Scottsdale, Arizona, and Amelia Island, Florida, which were attended by broker/dealer representatives from other firms who sold its REIT products. Although Wells Investment represented to NASD that these conferences were "strictly educational," they actually constituted lavish affairs that did not meet the standards of NASD rules. For example, Wells Investment provided broker/dealer representatives with a Friday night "sock hop," a "beach bash," and dinner at a Civil War fort with costumed Civil War heroes, fireworks, fife and drum players, skydivers, and a cannon reenactment. Wells Investment also invited the representatives' guests to many of these events, and paid for the guests' food, transportation, lodging, and golf fees. Wells Investment provided less than 13 hours of training and education during the three full days of each conference.

In settling this matter, Wells Investment and Wells neither admitted nor denied the allegations, but consented to the entry of findings and imposition of sanctions.

NASD Charges Long Island Firm, its President, and Two Former Managers as a Result of Fraudulent "Boiler Room" Sales Practices; Eleven Others Barred in Related Conduct

NASD has filed a complaint charging Yankee Financial Group, Inc., of Melville, NY, its President, and a former branch manager with engaging in high-pressure, boiler-room type sales practices that defrauded investors of \$8 million. NASD also permanently barred 11 other individuals, who worked for Yankee Financial and two other firms, for related fraudulent conduct.

NASD charged that, in the fall of 2001, Richard F. Kresge, Yankee Financial's President and majority owner, opened offices in Brooklyn and Staten Island. Brokers in these offices used high-pressure sales tactics, including misrepresentations, baseless price predictions, and omissions of material facts, to persuade investors to purchase shares of three highly speculative Over-the-Counter Bulletin Board (OTCBB) securities: Silver Star Foods, Inc.; Western Media Group Corp.; and Golden Chief Resources, Inc. In many instances, Yankee Financial brokers targeted sales of these stocks to the elderly and others for whom they were patently unsuitable.

NASD charged Yankee Financial and Kresge with fraudulent sales practices and unsuitable recommendations of these securities, as well as failing to supervise these branch offices and to establish any written supervisory procedures.

Gary Giordano, former Yankee Financial branch office manager, was charged with fraud for making unsuitable recommendations and for failing to supervise brokers in the Brooklyn and Staten Island offices. Charges against Joseph C. Korwasky, Yankee

Financial's former compliance officer, included failing to report customer complaints to NASD as required and charges related to the firm's written supervisory procedures he agreed to produce.

NASD surveillance of the OTCBB and subsequent investigation of the market activity in the three securities identified a number of other individuals, some affiliated with Yankee Financial and others with Sierra Brokerage Services and Argus Securities, who improperly pressured customers to purchase shares or otherwise participated in this scheme. As a result of NASD's investigation, 11 individuals were permanently barred, including:

- ♦ Kenneth Gliwa, Yankee Financial's former Vice President, who settled charges that he failed to supervise the firm's branch offices, allowed two unregistered persons to hire brokers and operate the Brooklyn and Staten Island branch offices, failed to conduct any meaningful review of the three securities to determine whether they were suitable investments for the firm's customers, and allowed the firm to operate without any written supervisory procedures;
- ♦ Jeffrey Richardson, Sierra's President and head trader, settled charges that he participated in an unlawful distribution of unregistered shares, which generated millions of dollars for offshore entities controlled by the two individuals who owned and operated Yankee Financial's Brooklyn and Staten Island branch offices;
- ♦ Lawrence Dugo, a Yankee Financial broker, and Samuel Barmapov, an Argus broker, settled charges that they used fraudulent sales practices in recommending shares to investors; and
- ♦ Joseph Ferragamo, one of the owners of the Yankee Financial branch offices; Yankee Financial brokers David Anderson (a.k.a. Vasily Kouznetsov), Eric Cennane, and Adam Klein; John Cook, Argus' former President; John Klukewycz, a former Argus branch manager; and Ilan Shteinberg, a former Argus broker were charged with failing to appear and testify in connection with NASD's investigation.

Under NASD rules, a firm or individual named in a complaint can file a response and request a hearing before an NASD disciplinary panel. Possible remedies include a fine, censure, suspension, or bar from the securities industry, disgorgement of gains associated with the violations, and payment of restitution.

NASD Charges Continental Broker-Dealer Corp. and its Executives with Sales Practice and Supervision Violations

NASD has filed a complaint against Continental Broker-Dealer Corp. of Carle Place, NY, for widespread violations of securities laws, including allowing Gregory M. Hasho to be its "de facto" owner and operator despite his previous SEC bar that prevented him from holding a supervisory and proprietary position in any securities firm. The NASD complaint also charged a former Continental registered representative, Rahman Rose, with executing numerous unsuitable, excessive, and fraudulent securities transactions involving high levels of margin and failing to appear for NASD testimony.

NASD also announced it had settled disciplinary actions with ten former employees of Continental.

NASD's investigation revealed Continental, at Hasho's direction, devised an unsuitable options trading strategy designed to generate commissions from customers. The promotion of this strategy, along with the lapse in proper supervision by the firm, resulted in widespread and egregious sales practice abuses by Rose and several other Continental registered representatives. The sales practice violations included unsuitable and excessive trading in customer accounts and the excessive use of margin. As a result of this violative conduct, many customers lost most or all of their principal investments, resulting in approximately \$5 million in losses, while the firm and its registered representatives reaped commissions in excess of \$5.3 million.

Continental had no enforced supervisory structure in place and therefore failed to ensure that designated principals performed their supervisory duties, NASD charged in the complaint. This lack of supervision and compliance with NASD rules and federal securities laws pervaded the firm and enabled Hasho to run Continental from 2000 to 2003 even though the SEC had barred him from acting as a supervisor in 1995. NASD's investigation revealed that Hasho actively managed and supervised Continental by participating in firm management decisions, directing substantial payments from Continental's bank accounts to third parties and by reviewing customer accounts.

Continental also failed to have its 2001 and 2002 annual audits performed by an independent public accountant, as required by NASD rules. The auditing firm's accountant was not independent because he had an outstanding \$500,000 personal

loan from Continental. In addition, to conceal the existence of that loan, Continental employees posted false entries in its general ledger and filed false financial reports with the SEC and NASD.

NASD also settled five disciplinary actions against Continental's former President, Thomas Tiernan; Chief Compliance Officer, Dominick Bianco; Chief Financial Officer, Leon Fintz; Registered Options Principal, Regan Tegge; and the New Jersey Office Branch Manager, Thomas Francis.

Tiernan, Bianco, Tegge, and Francis were charged with failing to supervise registered representatives in connection with unsuitable and excessive trading in customer accounts. Fintz was charged as a result of his involvement with the improper loan to Continental's outside auditor, and his participation in the posting of false accounting entries in the firm's books and records and in reports filed with the SEC and NASD. Tiernan, Francis, and Fintz were barred from the securities industry in all capacities; Bianco was barred from acting in a principal capacity and fined \$30,000; and Tegge was suspended in a principal capacity for one year, fined \$20,000, and ordered to requalify prior to returning to the securities industry.

NASD has also settled disciplinary actions with five former Continental registered representatives and received a default decision against a sixth registered representative after filing a complaint. All six were charged with engaging in unsuitable recommendations, excessive trading in customer accounts and excessive use of margin:

- ♦ Joseph Mucci, George Difuiolo, and Daren Deluca each received a six-month suspension.
- ♦ Mario Forte received a five-month suspension.
- ♦ Leonardo Balzano received a ten-month suspension.
- ♦ Kenneth Rodgers was barred from association with a member firm in any capacity.

Under NASD rules, an individual or firm charged in a complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, censure, suspension, expulsion, or bar from the securities industry, in addition to the request made by NASD in the complaint that the respondents give up any ill-gotten gains and pay restitution.

All individuals involved in settlements relating to this case agreed to the sanctions while neither admitting nor denying the allegations.